



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

ST

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/769,656 01/25/01 MCELHANEY

W 629

EXAMINER

PM82/1009  
LAW OFFICES OF JOHN D. GUGLIOTTA P.E., E  
202 DELAWARE BUILDING  
137 SOUTH MAIN STREET  
AKRON OH 44308

TRAN, K  
ART UNIT

PAPER NUMBER

3634  
DATE MAILED:

10/09/01

3

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	Application No. <b>09/769,656</b>	Applicant(s) <b>McElhaney Jr.</b>
	Examiner <b>Khoa Tran</b>	Art Unit <b>3634</b>
-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --		
<b>Period for Reply</b>		
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.		
<ul style="list-style-type: none"> <li>- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.</li> <li>- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).</li> <li>- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</li> </ul>		
<b>Status</b>		
1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>Jan 25, 2001</u>		
2a) <input type="checkbox"/> This action is FINAL.      2b) <input checked="" type="checkbox"/> This action is non-final.		
3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11; 453 O.G. 213.		
<b>Disposition of Claims</b>		
4) <input checked="" type="checkbox"/> Claim(s) <u>1-10</u> is/are pending in the application.		
4a) Of the above, claim(s) _____ is/are withdrawn from consideration.		
5) <input type="checkbox"/> Claim(s) _____ is/are allowed.		
6) <input checked="" type="checkbox"/> Claim(s) <u>1-10</u> is/are rejected.		
7) <input type="checkbox"/> Claim(s) _____ is/are objected to.		
8) <input type="checkbox"/> Claims _____ are subject to restriction and/or election requirement.		
<b>Application Papers</b>		
9) <input type="checkbox"/> The specification is objected to by the Examiner.		
10) <input checked="" type="checkbox"/> The drawing(s) filed on <u>Jan 25, 2001</u> is/are objected to by the Examiner.		
11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved.		
12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.		
<b>Priority under 35 U.S.C. § 119</b>		
13) <input type="checkbox"/> Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).		
a) <input type="checkbox"/> All b) <input type="checkbox"/> Some* c) <input type="checkbox"/> None of:		
1. <input type="checkbox"/> Certified copies of the priority documents have been received.		
2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____.		
3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).		
*See the attached detailed Office action for a list of the certified copies not received.		
14) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).		
<b>Attachment(s)</b>		
15) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)		
16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)		
17) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). <u>2</u>		
18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____		
19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-162)		
20) <input type="checkbox"/> Other:		

## **DETAILED ACTION**

### *Drawings*

The drawings are objected to because reference numeral "30" in Figure 3b should be --40-- in order to agree with what has been described in the specification. Correction is required.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "hooks are laterally adjustable in size" in claim 5, line 2, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. Correction is required.

Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect can be deferred until the application is allowed by the examiner.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With respect to claim 1, it is unclear whether the combination or subcombination is being claimed because the preamble implies the "rack arms" as the subcombination while the body

Art Unit: 3634

of the claim positively requires the combination. Further, several means plus functions have been recited without providing any basis to determine what would be an equivalent structure to perform the functions, and it is unclear how each mean is different from each other in order to perform the specific recited function. In particular, it is not knowing whether the single element of mean is capable of performing all the specific recited functions or certain function can only perform with certain structural means and not with other means. With respect to claim 3, it is unclear whether the combination or subcombination is being claimed because of the positive inclusion of "said rack arm" in the body of the claim. With respect to claim 5, there is no antecedent basis for "said hooks". Claim 7 appears to be misdescriptive and/or inaccurate because there is no support in the specification for the lateral support plate having means to support pneumatic driving tools.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

**A person shall be entitled to a patent unless --**

**(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.**

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Chen. The claims are of such breadth that they read on the tool organizer of Chen. Chen discloses a tool organizer comprising a storage volume formed by vertical sidewalls (20) and a bottom, and a lid

Art Unit: 3634

with the support means (3). The storage volume further has means (12, 22, 23) for supporting tools and the like, and a slideable drawer member (4) below the storage volume, see Figure 4.

Claim 3 is rejected under 35 U.S.C. 102(b) as being anticipated by Perkins. The claim is of such breadth that it reads on the tool organizer of Perkins. Perkins discloses a tool organizer comprising a support means (36), a main containment volume formed in a boxlike fashion that extending outward in a cantilever manner from the support means, see Figure 1, and a lockable (35) hinge-lid (21) covers the main containment volume.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perkins in view of Bishop. Perkins discloses a tool box organizer comprising the support means (36) attaches to the storage volume that formed by connecting walls (15, 17, 19) and a bottom (13). The storage volume formed a containment of a boxlike fashion that extending outwardly in a cantilever manner from the support means (36). The storage volume further comprises a lockable hinge-lid (21) on top and a slideable drawer (51) on the bottom of the containment, and a lateral supporting plate (37) extended horizontally from the containment volume to support tools and the

Art Unit: 3634

like that is placed on the plate, see Figure 3. Perkins does not teach the support means as the hooks. Bishop teaches the hooks (37) as the support means on the tool box organizer (10). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide the tool box organizer of Perkins with the provision of hooks as taught by Bishop in order to enable to the tool box organizer to mount on the cross bar or the like.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schmidt, Napier, Tedrow, Gugel et al., Ziff, Yemini, Medellin et al., Brent, Hart, Jr., and Lamb are cited to show similar configurations of design.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa Tran whose telephone number is (703) 306-3437. The examiner can normally be reached on Monday through Thursday from 8:30 A.M. to 7:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola, can be reached on (703) 308-2686. The fax phone number for this Group is (703) 305-3597 or (703) 305-3598.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

If the applicant is submitted by facsimile transmission, applicants are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and M.P.E.P. 502.02). In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission.

Art Unit: 3634

Responses requiring a fee which applicant is paying by check should not be submitting by facsimile transmission separately from the check. Responses submitted by facsimile transmission should include a Certificate of Transmission (M.P.E.P 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to the Patent and

Trademark Office (Fax No. \_\_\_\_\_ ) on \_\_\_\_\_  
(Date)

Type or printed name of person signing this certificate:

\_\_\_\_\_  
\_\_\_\_\_  
(Signature)

Furthermore, please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

Khoa Tran

September 26, 2001

  
Jerry Redman  
Primary Examiner